

**Testimony of David A. Sampson
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Before the Subcommittee on Capital Markets, Insurance and
Government Sponsored Enterprises
United States House of Representatives
Tuesday, June 10, 2008**

Chairman Kanjorski and Members of the Subcommittee, thank you for this opportunity to appear before you today regarding the Insurance Information Act of 2008.

I want to thank the Subcommittee, especially Chairman Kanjorski, for your leadership in increasing congressional knowledge about our complex industry and facilitating global commerce in the 21st century. We appreciate your efforts to foster rigorous dialogues, like today's hearing, which advance the debate on how best to modernize insurance regulation to meet the needs of consumers and drive a competitive economy.

PCI is a trade association with a diverse membership of more than 1,000 members. Our members are writers of nearly every kind, from the multi-line, multi-billion-dollar premium giants to the small, specialty insurers. Our industry strength is rooted in our diversity and our ability to come together to create solutions for consumers. The vast range of our membership places PCI in an excellent position to provide advice and expertise on insurance regulation to Congress and the Administration.

The PCI Board has not yet taken a position on the formation of an Office of Insurance Information (OII). While we are willing to look at the need for such an office, our members have a number of fundamental questions concerning the proposal. Some members see the

potential value, yet many have concerns. Today, I will discuss concerns about adding additional layers of bureaucracy through the creation of an Office of Insurance Information, procedures and protection for data collection, the NAIC serving in the main role of information provider and the power of preemption for the OII. First though, I would like to highlight for the Subcommittee the important contributions of our industry and the principles of insurance regulation which best serve consumers and foster a prosperous economy.

Insurance is a foundation industry to the global economy. Property and casualty insurance is part of the DNA of market economies. It is the oxygen for the engine of commerce. No business or personal risk is undertaken without it. In addition to being part of the foundation that enables an economy to function, property casualty insurers make a significant contribution to every state's economy. Our industry is a major investor in municipal bonds which plays a very important role in supporting state and local economies. These investments fund projects such as the construction of schools, roads, hospitals and libraries, and support a variety of other public sector projects. Municipal bonds held by property-casualty insurance companies totaled more than \$335 billion in 2006, making the industry the fourth largest type of investor in state and local municipal bonds in the United States. According to the Department of Commerce's Bureau of Economic Analysis, in 2004 there were 631,900 people directly employed by the property and casualty industry with another 1,987,578 indirectly employed by our industry.

The insurance industry positively impacts the free market system on which our nation's economy is built. That's why we advocate for market freedoms and a business environment that is characterized by healthy competition. We realize that as our global economy evolves, so must

our regulatory system for the entire financial services sector to ensure our competitiveness and continued success. PCI supports responsible reforms to the existing insurance regulatory system based on sound principles of regulation and preserving the prerogatives of the states. Markets differ greatly across America, and state-based regulation provides the flexibility that these differences require. But where the states continue to fail to make needed improvements, we may consider other approaches if proven necessary to the creation of a fair, effective and efficient business environment.

As policymakers consider options for fostering a competitive, global insurance industry and ensuring appropriate education and representation at the federal level, it is vital to understand the principles of good insurance regulation. Actions should not be taken that would ignore such principles. The primary responsibility of regulation should be to enhance solvency protection for policyholders. The best regulator of product and price is a competitive market. Such a system promotes competition and innovation in the marketplace; provides incentives for the efficient allocation of resources by consumers and insurers; attracts sufficient capital to meet public demands for insurance products and services; and promotes availability of insurer products to respond promptly to marketplace demands. Regulation should foster education to support consumer choice in a competitive market and should protect consumers against fraud and deceptive practices. Regulation should also enhance private sector function by eliminating unnecessary governmental intervention. And it should minimize economic cost of regulation by using rigorous cost/benefit analysis. Regulatory standards should be consistently applied and be easily ascertainable.

Recognizing the challenging environment in the financial services market, it is important that we resist the temptation to over correct and increase the regulatory burden on the insurance sector which has not experienced the liquidity problems other parts of the financial services sector have experienced.

Regarding the creation of an Office of Insurance Information, we are concerned about forming additional layers of bureaucracy to obtain extensive information that is already available from state agencies and industry experts and can easily be provided to Congress and the Administration. Instead of creating duplicative work and expenditures at the federal level, opportunities to access existing resources and strengthen public-private partnerships for information gathering should be considered. Such a targeted approach is consistent with our principles of good insurance regulation. An example of this type of successful collaboration is the Terrorism Risk Insurance Extension Act of 2007 reauthorization. Through collaboration with state agencies, insurance companies, and industry experts, data, education, and information was shared in a timely and productive manner. While there may be a need for a stronger voice for the industry on international issues, we believe this approach should be carefully explored.

To address concerns about protection and procedures for data collection, the current legislation needs additional clarity on the intent of use and reporting to ensure appropriate use, non-duplication of work, and unnecessary expenditures, which if occur, negatively impact consumers. In addition, capturing or reporting data could compromise the proprietary nature of the data or threaten the privacy interests of insurers, their customers or claimants. Further details are needed for the type of potential inquiries and the uses of data, as data should be targeted to

the purpose for which it is sought. There should also be a realization that data reporting requirements upon segments of the industry which are intended to provide alternative markets, such as surplus lines and risk retention groups, are counterproductive to the marketplace.

While we appreciate the work of the NAIC as a trade association, and value the contributions of Insurance Commissioners, we have concerns about an association becoming effectively the “sole source” to the OII. If the intent of the OII is to “receive, analyze, collect, and disseminate data and information and issue reports regarding all lines of insurance except health” we need to ensure the objectivity, confidentiality, certainty of privilege, and credibility of the data as well as protection of privacy. Unlike the NAIC, a new information office, if formed, would have to start with a clean slate to ensure an objective, fair role in the federal government and to provide assurance to the industry related to privacy and privilege protection. In addition, this potential new office should not be created to simply amass data. The state variation alone would make this charge unrealistic. In addition, the state agencies already compel statistical data collection and reporting and receive well defined statistical reports as a result. While striving to modernize the industry, we need to avoid adding additional bureaucracy.

As we envision the potential reality of the creation of an OII and the possible benefits, we must also carefully assess the potential issues and problems that could arise. Efforts should be made to ensure that appropriate data is collected and protected without placing burdensome, costly, and unnecessary requests on insurers which ultimately drives up costs for consumers. Data should be readily available, probative, and produce meaningful results. Additional protocols should be included to ensure privacy safeguards and discussion should continue on provisions

related to publicly available data. Ill conceived data searches are costly to taxpayers and companies, and these costs eventually trickle down to negatively impact consumers. Parameters should be identified around data collection searches to help ensure beneficial and productive results.

Furthermore, it is important that policy makers recognize that data drives a competitive marketplace. Proprietary information fosters healthy competition which in turn benefits consumers and our economy.

There are concerns with respect to the provisions for preemption of state law. This bill would, for the first time, give this potential federal entity preemptive authority over state insurance laws as an administrative process, rather than as a legislative one. This creates an uncertainty in an industry that relies on relative statistical certainty for its very existence. Without further definition, this authority could lead to unforeseen consequences which could negatively impact the industry. Thus, each preemption should be well defined by legislation and well understood, not left to develop by an administrative process. As our principles of good insurance regulation state, regulatory standards should be consistently applied and easily ascertainable. The legislative process is the most appropriate way of answering questions such as what happens to existing structures like the McCarran Ferguson Act. Additionally, the current proposal ties preemption to a country with an insurance-related trade agreement. A state law could be preempted as related to one foreign country but not another since we do not have treaties with every country. Thus, preemption may not apply equally in all states or to all policyholders.

We appreciate the leadership of Chairman Kanjorski and the Subcommittee and we look forward to working with you on these issues. Your efforts will help ensure we best serve consumers and foster a strong, competitive global economy. As we continue this important debate we need to address the questions and uncertainties the companies who provide vital insurance products have identified. The answers to these questions will ultimately determine our Board's position.

Thank you for the opportunity to appear here today.